

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

JAN 13 1999

IN THE MATTER OF:

DOCKET NUMBER: 97-03562

COUNSEL: None

HEARING DESIRED: No

~~APPLICANT REQUESTS THAT:~~

He be considered for promotion to the grade of lieutenant colonel by Special Selection Board (SSB) for the Calendar Years 1994A (CY94A), 1995B (CY95B), and 1997B (CY97B) Lieutenant Colonel Selection Boards.

~~APPLICANT CONTENDS THAT:~~

His officer preselection brief contained erroneous information regarding his duty title history. Specifically, the duty title history stated he had been demoted from Deputy Staff Judge Advocate to Chief of Preventive Law and Legal Assistance, and then to Assistant Staff Judge Advocate. He had not been demoted and was performing the duties set out in his Officer Performance Report (OPR) covering that period.

Applicant's complete submission is attached at Exhibit A.

~~STATEMENT OF FACTS:~~

The applicant is currently serving on extended active duty in the grade of major.

Applicant was considered and nonselected by the CY93A and CY94A Lieutenant Colonel Selection Boards, as a below-the-zone candidate. He has three promotion nonselections by the CY95B, CY97B, and CY97E Lieutenant Colonel Selection Boards.

HQ AFPC/DPPPA states the applicant's duty history has been corrected as follows: 1 February 1990, Ch, Prev Law and Legal Assistant, and 21 May 1990, Assistant Staff Judge Advocate, has been deleted. The 5 June 1989 entry, Deputy Staff Judge

Advocate, has been changed to Assistant Staff Judge Advocate, as reflected on applicant's OPR for the period 29 May 1989 through 28 May 1990. The 5 July 1990 duty Air Force Specialty Code (DAFSC) has also been changed from 8816 to 8811 to coincide with the OPR on file.

OPR profile since 1990, follows:

	<u>PERIOD ENDING</u>	<u>EVALUATION OF POTENTIAL</u>
	28 May 90	Meets Standards
	28 May 91	Meets Standards
	28 May 92	Meets Standards
#	28 May 93	Meets Standards
##	28 May 94	Meets Standards
###	28 May 95	Meets Standards
####	28 May 96	Meets Standards
#####	28 May 97	Meets Standards

Top report at time of CY93A board.
 ## Top report at time of CY94A board.
 ### Top report at time of CY95B board.
 #### Top report at time of CY97B board.
 ##### Top report at time of CY97E board.

AIR FORCE EVALUATION:

The Chief, Reports and Queries Team, Directorate of Assignments, AFPC/DPAIS1, reviewed the application and states that between the August 1997 Pre-Selection Brief and October 1997, an unknown source has deleted the 1 February 1990 and 21 May 1990 entries. The 1 February 1990 entry was not supported by any source document on file; therefore, they concur with member's request for deletion. The 21 May 1990 entry is a different story. The duty title "Assistant Staff Judge Advocate" coincided with the OPR closing 28 May 1990 and they would not have deleted it. Now they are left with a 5 June 1989 entry as the "Deputy Staff Judge Advocate" which doesn't coincide with the OPR; hence, this duty title is now in error. Based on the source document they have, they are changing the 5 June 1989 duty title to reflect "Assistant Staff Judge Advocate." They also have changed member's 5 July 1990 DAFSC as reads "8816" to "8811" to coincide with the OPR on file. They defer to HQ AFPC/DPPPAB.

A complete copy of the Air Force evaluation is attached at Exhibit C.

The Acting Chief, Appeals and SSB Branch, AFPC/DPPPA, reviewed the application and states that the OPB is sent to each eligible officer several months prior to a selection board. The OPB contains data that will appear on the officer selection brief (OSB) at the central board. Written instructions attached to the

OPB and given to the officer before the central selection board specifically instructs him/her to carefully examine the brief for completeness and accuracy. If any errors are found, he/she must take corrective action prior to the selection board, not after it. They retrieved the OSBs reviewed by all of the boards that have considered the applicant for promotion to lieutenant colonel - the earliest of which was the **CY93A** board. They noted the 5 June 1989 duty history indicated an incorrect duty title. The **CY94A**, **CY95B**, and **CY97B** OSBs not only show the two 1990 entries, but the incorrect duty title on the 5 June 1989 entry as well. The **CY97E** OSB reflects one 1990 duty history entry; however, the DAFSC is incorrect. In addition, the 5 June 1989 entry reflects an incorrect duty title. The applicant contends he was not aware the duty titles could be changed until August 1997. The letter forwarding each eligible officer their OPB specifically outlines each entry on the OPB and OSB and the appropriate offices of responsibility to contact to have this information corrected. The applicant has not demonstrated he made any attempt before now to have this information corrected. They are not convinced the applicant was unaware of the discrepancies in his duty history prior to the **CY97E** board. While it may be argued that the contested duty history discrepancies were factors in the applicant's nonselection, there is no clear evidence that they negatively impacted his promotion opportunity. Central boards evaluate the entire officer selection record (OSR) (including the promotion recommendation form, OPRs, officer effectiveness reports, training reports, letters of evaluation, decorations, and OSB), assessing whole person factors such as job performance, professional qualities, depth and breadth of experience, leadership, and academic and professional military education. They are not convinced these discrepancies were the cause of the applicant's nonselection - particularly since his OPRs for the time period reflected the correct duty information, and the boards took this into consideration when his record was reviewed for promotion. Each officer eligible for promotion consideration is advised of the entitlement to communicate with the board president. The applicant could have used this means to inform the board presidents of the duty history discrepancies. However, they have verified the applicant elected not to exercise this entitlement for any of the boards for which he was considered - up to and including the **CY97E** board which has yet to be released. Therefore, they recommend denial of applicant's request.

A complete copy of the Air Force evaluation is attached at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to the applicant on 9 February 1998, for review and response. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice warranting applicant's consideration for promotion to the grade of lieutenant colonel by SSB for the CY94A, CY95B, and CY97B selection boards. The applicant's duty history on his officer selection briefs (OSBs) have been corrected. Therefore, the only issue to be considered by this Board, is whether or not his records, to include corrected OSBs, should be considered for promotion by SSBs. It should be noted that every officer receives an Officer Preselection Brief (OPB) before meeting a promotion board. The OPB reflects the information that will appear on the OSB at the central board. Written instructions attached to the OPB and given to the officer before the central selection board specifically instructs him/her to carefully examine the brief for completeness and accuracy. If any errors are found, he/she must take corrective action prior to the selection board, not after it. Based on the documentation submitted with this appeal, we are not persuaded that the applicant took timely action to correct the errors on his OPB. Therefore, in the absence of evidence to the contrary, we find no basis upon which to recommend favorable action on this application.

THE BOARD DETERMINES THAT:

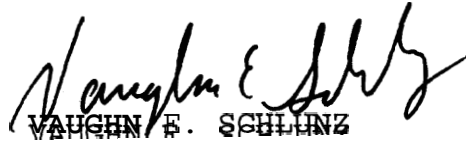
The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

The following members of the Board considered this application in Executive Session on 29 October 1998, under the provisions of AFI 36-2603:

Mr. Vaughn E. Schlunz, Panel Chair
Mr. Loren S. Perlstein, Member
Mr. Terry A. Yonkers, Member
Ms. Gloria J. Williams, Examiner (without vote)

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 24 Nov 97, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFPC/DPAIS1, dated 29 Dec 97.
- Exhibit D. Letter, AFPC/DPPPA, dated 22 Jan 98.
- Exhibit E. AFBCMR, dated 9 Feb 98.

A handwritten signature in black ink, appearing to read "Vaughn E. Schulz", is written over the printed name.

VAUGHN E. SCHULZ

Panel Chair